

**R E M A R K S**

Entry of this Amendment and reconsideration of this application as amended are respectfully requested.

Claims 1-11, 26-28, 78-82 and new claims 83-136 are pending in this application, claims 12-25 and 29-77 having been canceled. Claims 1-3, 7, 11, 26-28, 78, 80 and 81 are amended and unless an argument is made for the patentability of each of these claims over prior art of record, the changes do not relate to patentability.

**ELECTION/RESTRICTION**

Claims 21-25 and 29-77, directed to non-elected inventions, have been canceled without prejudice to filing one or more divisional applications directed to the subject matter of these claims.

**CLAIM REJECTIONS**

Claims 1-6, 12-20 and 78-82 were rejected as being anticipated by Lawes (USP 5,454,813). Claims 12-20 have been canceled so the rejection of these claims has been rendered moot.

The rejection of claims 1-6 and 78-82 is respectfully traversed because Lawes does not disclose, teach or suggest the present claimed invention.

With respect to claims 1-6, claim 1 now includes the feature of at least one sleeve insertable into a respective hole in a proximal head of a nail and which comprises a locking mechanism which engages a portion of the nail around the respective hole when the sleeve is inserted therein. The locking mechanism is structured and arranged to cooperate with the portion of the nail around the respective hole to prevent rotational and longitudinal movement between the sleeve and the nail when the sleeve is inserted in the respective hole in the nail.

Lawes does not disclose, teach or suggest a sleeve having a locking mechanism which cooperates with a portion of the nail around the hole into which the sleeve is inserted which is capable of preventing longitudinal movement between the sleeve and the nail.

Rather, Lawes shows a nail 1 having an angulated opening 2 into which a sleeve 12 is positioned and retains a screw 7. Screw 7 has a shaped shank 9, e.g., includes axially extending ridges 13, and the portion of the nail 1 around the opening 2 therefore includes slots 13a which cooperate with the ridges 13 to allegedly prevent rotation of the sleeve 13 (see col. 3, lines 62-67). However, the sleeve 13 does not comprise any structure which cooperates with the portion of the nail 1 around opening 2 to prevent longitudinal movement of the sleeve 13 relative to the nail 1.

Since Lawes does not disclose a sleeve which comprises a locking mechanism capable of preventing longitudinal movement of the sleeve relative to a nail, it cannot anticipate the embodiment of the invention set forth in claim 1, or the embodiments set forth in claims 2-6 which depend directly or indirectly from claim 1.

With respect to claims 78-82, claim 78 now includes the feature of the intra osseal body including at least one head hole therein and a portion of the retrieving device being lockable into the at least one hole in the body. This portion may be a connecting element 240 as shown in Fig. 6 and set forth in, e.g., claim 79.

Lawes does not disclose, teach or suggest a retrieving device having a portion lockable into a hole in an intra osseal body.

Rather, Lawes shows a fitting device 31 and a tunnel locator 32. No part of either the fitting device 31 or the tunnel locator 32 is lockable into the angulated opening 2 in the nail 1.

Since Lawes does not disclose a retrieving device which has a portion lockable into a hole in an intra osseal body, it cannot anticipate the embodiment of the invention set forth in claim 78, or the embodiments set forth in claims 79-82 which depend directly or indirectly from claim 78.

In view of the foregoing, it is respectfully submitted that the Examiner's rejection of claims 1-6 and 78-82 as being anticipated by Lawes has been overcome and should be removed.

Claims 1, 2, 7, 11, 12 and 26-28 were rejected as being anticipated by Bramlet et al (USP 6,648,889) and claims 8-10 were rejected as being unpatentable over Bramlet et al. Claim 12 has been canceled so the rejection of this claim has been rendered moot.

The rejections of claims 1, 2, 7-11, 26-28 are respectfully traversed because Bramlet et al. does not disclose, teach or suggest the present claimed invention.

With respect to claims 1 and 2, claim 1 now includes the feature of at least one sleeve insertable into a respective hole in a proximal head of a nail and which comprises a locking mechanism which engages a portion of the nail around the respective hole when the sleeve is inserted therein. The locking mechanism is integral with the sleeve and structured and arranged to cooperate with the portion of the nail around the respective hole to prevent rotational and longitudinal movement between the sleeve and the nail when the sleeve is inserted in the respective hole in the nail.

Bramlet et al. does not disclose, teach or suggest a sleeve having a locking mechanism which is integral therewith.

Rather, Bramlet et al. shows a nail 1 having a bore 33 into which a sleeve 3 is positioned and retains a screw 4. A sleeve lock 2 is arranged at a top of the nail 2 and is pressed into engagement with the sleeve 3 to lock the sleeve in position (see Fig. 3). However, in contrast to the claimed embodiment of the invention, the sleeve lock 2 is not integral with the sleeve 3 but rather is an independent component.

Since Bramlet et al. does not disclose a sleeve which comprises an integral locking mechanism, it cannot anticipate the embodiment of the invention set forth in claim 1, or the embodiment set forth in claim 2 which depends from claim 1.

With respect to claims 7-11, claim 7 now includes the feature of the nail comprising a stem adjacent a first end of the nail and a proximal head having a distal portion including at least one hole for receiving a coupling element and a proximal portion. The distal portion is arranged adjacent the stem and the proximal portion is arranged adjacent a second end of the nail opposite the first end of the nail such that the distal portion of the head is between the proximal portion of the head and the stem. The proximal portion has a diameter less than or equal to about 80% of the diameter of the distal portion.

Bramlet et al. does not disclose, teach or suggest a nail having this construction. There does not appear to be any

proximal portion of the head which has a smaller diameter than a distal portion of the head.

Since Bramlet et al. does not disclose a nail having a proximal portion of a head which is smaller than a distal portion of the head, it cannot anticipate the embodiment of the invention set forth in claim 7, or anticipate or render obvious the embodiments set forth in claims 8-11 which depend directly or indirectly from claim 7.

With respect to claims 26-28, claim 26 now includes the feature of the nail comprising a stem adjacent a first end of the nail and a proximal head having a distal portion including at least one hole for receiving at least one coupling element and a proximal portion. The distal portion is arranged adjacent the stem and the proximal portion is arranged adjacent a second end of the nail opposite the first end of the nail. The proximal portion is visually discrete from the distal portion, e.g., visually and structurally distinct.

Bramlet et al. does not disclose, teach or suggest a nail having this construction. There does not appear to be any proximal portion of the head which is visually discrete from a distal portion of the head.

Since Bramlet et al. does not disclose a nail having a proximal portion of a head which is visually discrete from a distal portion of the head, it cannot anticipate the embodiment

of the invention set forth in claim 26, or those embodiments set forth in claims 27 and 28 which depend from claim 26.

In view of the foregoing, it is respectfully submitted that the Examiner's rejections of claims 1, 2, 7-11 and 26-28 as being anticipated by or unpatentable over Bramlet et al. have been overcome and should be removed.

In view of the foregoing, it is respectfully submitted that claims 1-11, 26-28 and 78-82 patentably distinguish over the prior art of record under 35 USC 102 and 35 USC 103. Therefore, applicant respectfully requests withdrawal of the rejections of these claims.

#### **NEW CLAIMS**

Claims 83-136 are added and all are directed to the elected invention.

Claims 83-89 depend directly or indirectly from claim 1 and set forth additional features of the apparatus of claim 1.

Claims 90-96 depend directly or indirectly from claim 7 and set forth additional features of the apparatus of claim 7.

Claim 97 is a new independent apparatus claim which includes subject matter similar to claim 1, viz., locking means arranged on each sleeve for locking the sleeve in connection with the nail when the sleeve is inserted in a respective hole in the nail in

order to prevent rotational and longitudinal movement between the sleeve and the nail.

Claims 98-113 depend directly or indirectly from claim 97 and set forth additional features of the apparatus of claim 97.

Claim 114 is another new independent apparatus claim which includes subject matter similar to claim 1, viz., a cooperating locking arrangement having a first part arranged on each sleeve and a second part formed in the nail and which locks the sleeve in connection with the nail when the sleeve is inserted in a respective hole in the nail in order to prevent rotational and longitudinal movement between the sleeve and the nail.

Claims 115-123 depend directly or indirectly from claim 114 and set forth additional features of the apparatus of claim 114.

Claim 124 is another new independent apparatus claim which includes the feature of the nail having a plurality of holes therethrough.

Claims 125-133 depend directly or indirectly from claim 124 and set forth additional features of the apparatus of claim 124.

Claims 134-136 depend directly or indirectly from claim 78 and set forth additional features of the apparatus of claim 78.

No new matter is introduced by the presentation of claims 83-136. Moreover, it is respectfully submitted that the Lawes and Bramlet et al. do not disclose, teach or suggest the embodiments set forth in these claims.



Application No. 10/616,218  
Amdt. dated Mar. 13, 2007  
Reply to Office Action dated Dec. 19, 2006

Customer No. 01933

**AUTHORIZATION TO CHARGE FEE**

As previously set forth, the application contained 82 claims, of which 15 were independent, and the appropriate claim fee was paid for such claims. The application now contains 73 claims, of which 8 are independent. Accordingly, no fee is due. Nevertheless, authorization is hereby given to charge any fees which may be determined to be required to Deposit Account No. 06-1378.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,

Leonard Holtz  
Reg. No. 22,974

Frishauf, Holtz, Goodman & Chick, P.C.  
220 Fifth Avenue, 16th Floor  
New York, New York 10001-7708  
Tel. No. (212) 319-4900  
Fax. No. (212) 319-5101  
LH/nps